

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

CARRIE EARLENE WALKER,

Petitioner,

v.

CASE NO. 21-3245-SAC

GLORIA GEITHER,

Respondent.

MEMORANDUM AND ORDER

When Petitioner Carrie Earlene Walker filed her petition for writ of habeas corpus on October 22, 2021, she neither paid the \$5.00 statutory filing fee nor submitted a motion to proceed in forma pauperis. Accordingly, the same day, the Court mailed a notice of deficiency to Petitioner directing her to either pay the filing fee or submit a motion to proceed in forma pauperis and the required supporting documents within 30 days. (Doc. 2.) The notice advised Petitioner if she failed to do so, this action may be dismissed without further notice. *Id.* The notice granted Petitioner until November 22, 2021, to file the motion or pay the filing fee. *Id.* That deadline has now passed and Petitioner has neither paid the filing fee nor submitted a motion to proceed in forma pauperis.

Under Federal Rule of Civil Procedure 41(b), a district court may dismiss an action “if the plaintiff fails to prosecute or to comply with these rules or a court order.” Fed. R. Civ. P. 41(b); *See also Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003) (noting that Rule 41(b) “has long been interpreted to permit courts to dismiss actions sua sponte for a plaintiff’s failure . . . to comply with the . . . court’s orders”). Petitioner has failed to comply with the Court’s order to pay the \$5.00 statutory filing fee or file a motion to proceed in forma pauperis on or before November 22, 2021. Thus, the Court concludes that this matter should be dismissed without prejudice under Rule 41(b).

Because this matter will be dismissed under Rule 41(b), Petitioner is no longer required to file the status report currently due on or before December 10, 2021. (See Doc. 3.)

IT IS THEREFORE ORDERED that this matter is **dismissed without prejudice** for failure to comply with a court order pursuant to Fed. R. Civ. P. 41(b). Petitioner is no longer required to file the status report currently due on or before December 10, 2021.

IT IS SO ORDERED.

DATED: This 1st day of December, 2021, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge